

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN GREINER,

Plaintiff,

Case No. 14-cv-13979

Hon. Matthew F. Leitman

v.

CHARTER COUNTY OF  
MACOMB, MICHIGAN, a/k/a  
MACOMB COUNTY, et al.,

Defendants.

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**ORDER DENYING MOTION TO EXPAND RECORD (ECF #151)**

This Court previously entered summary judgment in favor of Defendants and against Plaintiff. Plaintiff has appealed to the United States Court of Appeals for the Sixth Circuit, and that appeal is now pending in the appellate court. On February 23, 2018, Plaintiff moved to expand the record to include a transcript of certain state administrative proceedings. (*See* ECF #149.) On February 26, 2018, the Court entered an order in which it denied that motion. (*See* ECF #150.) Plaintiff has now filed a second motion to expand the record which includes an affidavit from Plaintiff. (*See* ECF #151.)

The second motion to expand the record is **DENIED**. Plaintiff cites and quotes Federal Rule of Appellate Procedure 10(b)(2) in support of the motion, but that rule does not concern expanding the record on appeal with evidence not submitted to a district court.

Rule 10(e)(2) of the Federal Rules of Appellate Procedure does allow for supplementation of the record under some circumstances, but that rule does not appear to support Plaintiff's request to supplement here. The United States Court of Appeals for the Sixth Circuit has explained that that rule does "not permit[]" a party "to add new material that was never considered by the district court." *Inland Bulk Transfer Co. v. Cummins Engine Co.*, 332 F.3d 1007, 1012 (6th Cir. 2003). That is what Plaintiff apparently seeks to do through his motion – to submit for review by the Sixth Circuit a transcript that was never considered by this Court. Plaintiff has failed to demonstrate how his request to expand the record is permissible and/or proper under Rule 10(e). Accordingly, the Court **DENIES** Plaintiff's second motion to expand the record.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: March 6, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 6, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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